

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

United States of America	)	
	)	Cr. No. 6:07-938-HMH
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
Jon Leon Lindsey,	)	
	)	
Movant.	)	

This matter is before the court on Jon Leon Lindsey’s (“Lindsey”) motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255.<sup>1</sup>

On October 23, 2007, Lindsey pled guilty to being a felon in possession of a firearm and ammunition. On January 30, 2008, Lindsey was sentenced to thirty-seven (37) months’ imprisonment to be served concurrently with the state sentence that he is presently serving. Lindsey did not appeal his sentence. On December 15, 2008<sup>2</sup>, Lindsey filed a pro se § 2255 motion in the form of a letter. In a December 17, 2008 order, this court directed Lindsey to submit the motion using the proper form, AO form 243, within twenty (20) days. Lindsey was mailed an AO form 243 along with the December 17, 2008 order. On January 15, 2009, the clerk again mailed the AO form 243 after learning that Lindsey was moved to FCI-Edgefield. Lindsey did not respond and the court has not received any of the mail returned as undeliverable.

On February 25, 2009, this court, sua sponte, afforded Lindsey fifteen (15) days to submit his § 2255 motion in proper form. The court advised Lindsey that if he failed to submit his

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<sup>1</sup> Lindsey submitted a letter to the court on December 15, 2008, asking the court to “[p]lease accept this letter as a motion to vacate sentence.” (Lindsey’s Letter 1.)

<sup>2</sup> Houston v. Lack, 487 U.S. 266, 266 (1988).

§ 2255 motion in proper form, the court would dismiss it for failure to “prosecute or to comply with . . . a court order” pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. To date, Lindsey has not submitted his § 2255 motion in the proper form. Accordingly, Lindsey’s § 2255 motion is dismissed with prejudice for failure to prosecute pursuant to Rule 41(b).

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
March 18, 2009

**NOTICE OF RIGHT TO APPEAL**

The Movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.